

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," and Chapter 53, "Determination of Net Income," Iowa Administrative Code.

These amendments are proposed as a result of 2008 Iowa Acts, House Files 2283 and 2417 and 2008 Iowa Acts, Senate Files 2123 and 2430.

Item 1 amends subrule 40.44(1) to provide that state match payments related to individual development accounts are also exempt from Iowa individual income tax.

Item 2 amends the implementation sentence for rule 701—40.44(422,541A).

Item 3 adopts new subrule 40.60(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2009, does not apply for Iowa individual income tax.

Item 4 amends the implementation sentence for rule 701—40.60(422).

Item 5 amends rule 701—40.65(422) to provide that the increased Section 179 expensing allowance for tax periods beginning after December 31, 2007, but before January 1, 2009, does apply for Iowa individual income tax.

Item 6 amends the implementation sentence for rule 701—40.65(422).

Item 7 amends rule 701—40.72(422) to provide for an exclusion for individual income tax for a Vietnam Conflict veterans bonus received by eligible veterans who served between July 1, 1958, through May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

Item 8 adopts new subrule 41.3(7) to provide that the federal rebate received by individuals in 2008 does not have to be included as part of an individual's federal income tax refund for Iowa individual income tax purposes.

Item 9 amends the implementation sentence for rule 701—41.3(422).

Item 10 amends paragraph 42.2(11)"b" to include federal revisions made in 2007 to the research activities credit for individual income tax.

Items 11 and 12 amend paragraphs 52.7(3)"c" and 52.7(5)"c" to include federal revisions made in 2007 to the research activities credit for corporation income tax.

Item 13 amends the implementation sentence for rule 701—52.7(422).

Item 14 adopts new subrule 53.22(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2009, does not apply for Iowa corporation income tax.

Item 15 amends the implementation sentence for rule 701—53.22(422).

Item 16 amends rule 701—53.23(422) to provide that the increased Section 179 expensing allowance for tax periods beginning after December 31, 2007, but before January 1, 2009, does apply for Iowa corporation income tax.

Item 17 amends the implementation sentence for rule 701—53.23(422).

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than October 27, 2008, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 14, 2008. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 17, 2008.

These amendments are intended to implement Iowa Code Supplement sections 15.335, 15A.9, 422.3, 422.7, 422.10, 422.32, 422.33 and 422.35 as amended by 2008 Iowa Acts, Senate File 2123; Iowa Code Supplement section 422.7 as amended by 2008 Iowa Acts, House File 2283 and Senate File 2430; and Iowa Code section 422.9 as amended by 2008 Iowa Acts, House File 2417.

The following amendments are proposed.

ITEM 1. Amend subrule 40.44(1) as follows:

40.44(1) *Exemption of additions to individual development accounts.* The following additions to individual development accounts are exempt from the state income tax of the owners of the accounts to the extent the additions were subject to federal income tax:

- a. The amount of contributions made in the tax year to an account by persons and entities other than the owner of the account.
- b. The amount of any savings refund or state match payments made in the tax year to an account as authorized for contributions made to the accounts by the owner of the account.
- c. Earnings on the account in the tax year or interest earned on the account.

ITEM 2. Amend rule ~~701—40.44(422,541A)~~, as follows:

This rule is intended to implement Iowa Code sections 422.7, 541A.2 and 541A.3 as amended by ~~1996 Iowa Acts, Senate File 2324~~ 2008 Iowa Acts, Senate File 2430.

ITEM 3. Adopt the following new subrule 40.60(3):

40.60(3) *Assets acquired after December 31, 2007, but before January 1, 2009.* For tax periods beginning after December 31, 2007, but beginning before January 1, 2009, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2009, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2009, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

ITEM 4. Amend rule **701—40.60(422)**, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2005 Iowa Acts, House File 102.~~

ITEM 5. Amend rule **701—40.65(422)**, as follows:

701—40.65(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa individual income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa individual income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No.110-185, Section 102, may be taken for Iowa individual income tax.

ITEM 6. Amend rule **701—40.65(422)**, as follows:

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2005 Iowa Acts, House File 102~~ 2008 Iowa Acts, Senate File 2123.

ITEM 7. Amend rule 701—40.72(422) as follows:

701—40.72(422) Exclusion of Vietnam Conflict veterans bonus.

40.72(1) For tax years beginning on or after January 1, 2007, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs, and bonuses of up to \$500 are awarded to residents of Iowa who served on active duty in the armed forces of the United States between July 1, 1973, and May 31, 1975.

40.72(2) For tax years beginning on or after January 1, 2008, a taxpayer who received a bonus under the Vietnam Conflict veterans bonus program may subtract, to the extent included in federal adjusted gross income, the amount of the bonus received. The Vietnam Conflict veterans bonus is administered by the Iowa department of veterans affairs. Bonuses of up to \$500 are awarded to veterans who were inducted into active duty service from the state of Iowa, who served on active duty in the United States armed forces from July 1, 1958, through May 31, 1975, and who have not received a bonus for that service from Iowa or another state.

This rule is intended to implement Iowa Code section 422.7 as amended by ~~2007 Iowa Acts, Senate File 578~~ 2008 Iowa Acts, House File 2283.

ITEM 8. Adopt the following **new** subrule 41.3(7):

41.3(7) Federal rebate received in 2008. For tax years beginning in the 2008 calendar year, the federal tax rebate or advanced refund of federal income tax provided to certain individuals in 2008 pursuant to the federal Economic Stimulus Act of 2008 is not to be included as part of an individual's federal income tax refund for the individual's federal tax deduction for Iowa individual income tax purposes.

EXAMPLE. Frank and Jane Casey received a federal refund of \$1,300 in March 2008 from federal income tax that had been deducted on their 2007 Iowa individual income tax return. Frank and Jane also received a \$1,200 federal rebate in June 2008. When Frank and Jane file their 2008 Iowa return, they must report a federal income tax refund of \$1,300. However, they are not required to include as part of

the federal income tax refund shown on their 2008 Iowa return the \$1,200 federal rebate they received in June 2008.

ITEM 9. Amend rule **701—41.3(422)**, as follows:

This rule is intended to implement Iowa Code section 422.9 as amended by ~~2005 Iowa Acts, Senate File 413~~ 2008 Iowa Acts, House File 2417.

ITEM 10. Amend paragraph **42.2(11)“b”** as follows:

b. In lieu of the credit computed under paragraph “*a*” of this subrule, a taxpayer may elect to compute the credit amount for qualified research expenses incurred in this state in a manner consistent with the alternative incremental credit described in Section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used by the taxpayer on the taxpayer’s federal income tax return. The election made under this paragraph is for the tax year and the taxpayer may use another method or this same method for any subsequent tax year. For purposes of this alternative research credit computation, the credit percentages applicable to qualified research expenses described in clauses (i), (ii), and (iii) of Section 41(c)(4)(A) of the Internal Revenue Code are 1.65 percent, 2.20 percent, and 2.75 percent, respectively.

For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “*b*” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this subrule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

ITEM 11. Amend paragraph **52.7(3)“c”** as follows:

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph “*b*” of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

ITEM 12. Amend paragraph **52.7(5)“c”** as follows:

c. For purposes of this subrule, the terms “base amount,” “basic research payment,” and “qualified research expense” mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in subrule 52.7(3) of this rule, such amounts are limited to research activities conducted within the quality jobs enterprise zone. For purposes of this rule, “Internal Revenue Code” means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

ITEM 13. Amend rule **701—52.7(422)**, as follows:

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2007 Iowa Acts, House File 319~~ 2008 Iowa Acts, Senate File 2123.

ITEM 14. Adopt the following new subrule 53.22(3):

53.22(3) *Assets acquired after December 31, 2007, but before January 1, 2009.* For tax periods beginning after December 31, 2007, but beginning before January 1, 2009, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2009, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss

reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2009, can be calculated on Form IA 4562A.

The following nonexclusive examples illustrate how this subrule applies:

EXAMPLE 1: Taxpayer acquired a \$100,000 qualifying asset on January 10, 2008, which has a five-year life for depreciation purposes. Using the bonus depreciation provision in Section 168(k) of the Internal Revenue Code, taxpayer was entitled to a \$44,000 depreciation deduction on the federal return for 2008. For Iowa purposes, taxpayer must use the MACRS depreciation method which results in a \$20,000 depreciation deduction on the Iowa return for 2008. Therefore, a \$24,000 (\$44,000 - \$20,000) increase to net income relating to this depreciation adjustment must be made on the Iowa return for 2008.

EXAMPLE 2: Taxpayer acquired a \$1,000,000 qualifying asset on January 10, 2008, which has a ten-year life for depreciation purposes. This asset was sold on December 31, 2011, for \$500,000. Using the bonus depreciation provision, taxpayer claimed \$677,440 of depreciation deductions on the federal returns for 2008-2011. This results in a basis for this asset of \$322,560 (\$1,000,000 - \$677,440), and a gain of \$177,440 (\$500,000 - \$322,560) on the federal return for 2011 on the sale of the asset.

Using the MACRS depreciation method, taxpayer claimed \$539,200 of depreciation deductions on the Iowa returns for 2008-2011. This results in a basis for this asset of \$460,800 (\$1,000,000 - \$539,200), and a gain of \$39,200 (\$500,000 - \$460,800) on the Iowa return for 2011 on the sale of the asset. Therefore, a decrease to net income of \$138,240 (\$177,440 - \$39,200) relating to this gain adjustment must be made on the Iowa return for 2011.

ITEM 15. Amend rule **701—53.22(422)**, as follows:

This rule is intended to implement Iowa Code section 422.35 ~~as amended by 2005 Iowa Acts, House File 102.~~

ITEM 16. Amend rule **701—53.23(422)**, as follows:

701—53.23(422) Section 179 expensing. For tax periods beginning on or after January 1, 2003, but beginning before January 1, 2006, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No. 108-27, Section 202, may be taken for Iowa corporation income tax. If the taxpayer elects to take the increased Section 179 expensing, the Section 179 expensing allowance on the Iowa corporation income tax return is the same as the Section 179 expensing allowance on the federal income tax return for tax years beginning on or after January 1, 2003, but beginning before January 1, 2006. In addition, for tax periods beginning on or after January 1, 2008, but beginning before January 1, 2009, the increase in the expensing allowance for qualifying property authorized in Section 179(b) of the Internal Revenue Code, as enacted by Public Law No.110-185, Section 102, may be taken for Iowa corporation income tax.

ITEM 17. Amend rule **701—53.23(422)**, as follows:

This rule is intended to implement Iowa Code section 422.35 ~~as amended by 2005 Iowa Acts, House File 102~~ 2008 Iowa Acts, Senate File 2123.